

the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when such person enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It shall be unlawful for any parent(s), guardian(s) or custodian(s) of a person less than eighteen years of age who knows that said person is in violation of subsection (b) of this section, or who has reasonable cause to believe that said person's violation of said subsection is imminent, to fail to immediately report such knowledge or belief to the appropriate school or law-enforcement officials.

(2) Any person violating this subsection shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one

thousand dollars, or shall be confined in jail not more than one year, or both.

(g)(1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any premises which houses a court of law or in the offices of a family law master.

(2) This subsection shall not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over such premises or offices.

(3) Any person violating this subsection shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one

thousand dollars, or shall be confined in jail not more than one year, or both.

(h)(1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any premises which houses a court of law or in the offices of a family law master with the intent to commit a crime.

(2) Any person violating this subsection shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of this state for a definite term of years of not less than two years nor more than ten years, or fined not more than five thousand dollars, or both.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

[Current through 2001 6th Special Session]

WISCONSIN Wis. STAT.

Chapter 66. General Municipality Law

66.0409. Local regulation of firearms.

(1) In this section:

(a) **"Firearm"** has the meaning given in s. 167.31 (1) (c).

(b) **"Political subdivision"** means a city, village, town or county.

(c) **"Sport shooting range"** means an area designed and operated for the practice of weapons used in hunting, skeet shooting and similar sport shooting.

(2) Except as provided in subs. (3) and (4), no political subdivision may enact an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(3)(a) Nothing in this section prohibits a county from imposing a sales tax or use tax under subchapter V of chapter 77 on any firearm or part of a firearm, including ammunition and reloader components, sold in the county.

(b) Nothing in this section prohibits a city, village or town that is authorized to exercise village powers under s. 60.22 (3) from enacting an ordinance or adopting a resolution that restricts the discharge of a firearm.

(4)(a) Nothing in this section prohibits a political subdivision from continuing to enforce an ordinance or resolution that is in effect on November 18, 1995, and that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, if the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(am) Nothing in this section prohibits a political subdivision from continuing to enforce until November 30, 1998, an ordinance or resolution that is in effect on November 18, 1995, and that requires a waiting period of not more than 7 days for the purchase of a handgun.

(b) If a political subdivision has in effect on November 17, 1995, an ordinance or resolution that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components,

and the ordinance or resolution is not the same as or similar to a state statute, the ordinance or resolution shall have no legal effect and the political subdivision may not enforce the ordinance or resolution on or after November 18, 1995.

(c) Nothing in this section prohibits a political subdivision from enacting and enforcing a zoning ordinance that regulates the new construction of a sport shooting range or when the expansion of an existing sport shooting range would impact public health and safety.

(5) A county ordinance that is enacted or a county resolution that is adopted by a county under sub. (2) or a county ordinance or resolution that remains in effect under sub. (4) (a) or (am) applies only in those towns in the county that have not enacted an ordinance or adopted a resolution under sub. (2) or that continue to enforce an ordinance or resolution under sub. (4) (a) or (am), except that this subsection does not apply to a sales or use tax that is imposed under subchapter V of chapter 77.

Chapter 175. Miscellaneous Police Provisions

175.30. Purchase of firearms in contiguous states permitted. It is lawful for a resident of this state or a corporation or other business entity maintaining a place of business in this state to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state if the transfer complies with federal law and the laws of both states.

175.35. Waiting period for purchase of handguns.

(1) In this section:

(ag) **"Criminal history record"** includes information reported to the department under s. 938.396 (8) that indicates a person was adjudicated delinquent for an act that if committed by an adult in this state would be a felony.

(ar) **"Firearms dealer"** means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer issued by the U.S. department of the treasury.

(at) **"Firearms restrictions record search"** means a search of department of justice records to determine whether a person seeking to purchase a handgun is prohibited from possessing a firearm under s. 941.29. "Firearms restriction record search" includes a criminal history record search, a search to determine whether a person is prohibited from possessing a firearm under s. 51.20 (13) (cv), a search to determine whether

the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 806.247 (3), and a search to determine whether the person is prohibited from possessing a firearm under s. 813.125 (4m).

(b) **"Handgun"** means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.

(c) **"Working day"** means each day except Saturday, Sunday or a legal holiday under s. 895.20.

(2) When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun to any other person until all of the following have occurred:

(a) The transferee has provided identification as required by rule under sub. (2g) (a).

(b) The transferee has completed the notification form described in sub. (2g) (b).

(c) The firearms dealer has conveyed the information from the completed notification form to the department of justice as required by rule under sub. (2g) (b) and requested a firearms restrictions record search.

(d) Forty-eight hours, subject to extension under sub. (2g) (c) 4. c., have elapsed from the time that the firearms dealer has received a confirmation number regarding the firearms restrictions record search under sub. (2g) (c) from the department of justice and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29.

(2e) When a transferee completes the notification form described in sub. (2g) (b), the transferee shall provide truthful information.

(2f) When a firearms dealer requests that the department of justice provide a firearms restrictions record search under sub. (2g), he or she shall provide truthful information about his or her status as a firearms dealer and shall provide an accurate firearms dealer identification number obtained under sub. (2h). A person may request that the department provide a firearms restrictions record search under sub. (2g) only if he or she is a firearms dealer.

(2g)(a) The department of justice shall promulgate rules prescribing procedures for a trans-

feree to provide and a firearms dealer to inspect identification containing a photograph of the transferee.

(b) The department of justice shall promulgate rules prescribing a notification form for use under sub. (2) requiring the transferee to provide his or her name, date of birth, gender, race and social security number and other identification necessary to permit an accurate firearms restrictions record search under par. (c) 3. and the required notification under par. (c) 4. The department of justice shall make the forms available at locations throughout the state.

(c) The department of justice shall promulgate rules for firearms restrictions record searches regarding transferees under sub. (2), including procedures for all of the following:

1. A firearms dealer to convey the information from a completed notification form to the department using a toll-free telephone number provided by the department.

2. The department to provide the firearms dealer with a confirmation number confirming the receipt of the information under subdivision 1.

3. The department to conduct the firearms restrictions record search regarding the transferee. The rules shall include, but not be limited to, a requirement that the department use the transaction information for management of enforcement system and the national crime information center system.

4. The department to notify the dealer, either during the initial telephone call or as soon thereafter as practicable, of the results of the firearms restrictions record search as follows:

a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique nonapproval number. The department may not disclose to the firearms dealer the reason the transferee is prohibited from possessing a firearm under s. 941.29.

b. If the search indicates that the transferee is not prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique approval number.

c. If the search indicates a felony charge without a recorded disposition, the deadline under sub. (2) (d) is extended to the end of the 3rd complete working day commencing after the day on which the finding is made. The department shall notify the firearms dealer of the extension as soon as practicable. During the extended period, the department shall make every reasonable effort to determine the disposition of the charge and notify the firearms dealer of the results as soon as practicable.

(2h) Upon the request of any firearms dealer, the department of justice shall provide that firearms dealer with a unique firearms dealer identification number for use under this section.

(2i) The department shall charge a firearms dealer an \$8 fee for each firearms restrictions record search that the firearms dealer requests under sub. (2)(c). The firearms dealer may collect the fee from the transferee. The department may refuse to conduct firearms restrictions record searches for any firearms dealer who fails to pay any fee under this subsection within 30 days after billing by the department.

(2j) A firearms dealer shall maintain the original record of all completed notification forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers that he or she receives regarding firearms restrictions record searches under sub. (2g). The firearms dealer shall mail the duplicate copy of

each completed notification form to the department of justice.

(2k)(ag) In this subsection:

1. "Law enforcement agency of a physically adjacent state" has the meaning given in s. 175.46 (1) (b).

2. "Wisconsin law enforcement agency" means a governmental unit of one or more persons employed by this state or a political subdivision of this state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(ar) Except as provided in pars. (b) to (j) and as necessary to administer this section, the department of justice shall do all of the following:

1. Deny access to any record kept under this section.

2. Check each duplicate notification form received under sub. (2) against the information recorded by the department regarding the corresponding request for a firearms restrictions record search under sub. (2g). If the department previously provided a unique approval number regarding the request and nothing in the duplicate completed notification form indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall destroy all records regarding that firearms restrictions record search within 30 days after receiving the duplicate form.

(b) Notwithstanding par. (ar), the department of justice may maintain all of the following:

1. Records necessary to comply with federal law.

2. a. Except as provided in subd. 2. b., a log of dates of requests for firearms restrictions record searches under sub. (2g) together with confirmation numbers, unique approval and nonapproval numbers and firearms dealer identification numbers corresponding to those dates.

b. Within 3 years after the department issues a unique approval number, the department shall destroy all corresponding information contained in the log under subd. 2. a.

3. Records necessary to administer this section.

(c) Notwithstanding par. (ar), the department of justice shall provide access to any record under this section under all of the following circumstances:

1. The department of justice receives a record request that is submitted in writing by a Wisconsin law enforcement agency.

2. The request submitted under subd. 1. appears on the Wisconsin law enforcement agency's letterhead and contains all of the following:

a. A statement that the Wisconsin law enforcement agency is conducting an investigation of a crime in which a handgun was used or was attempted to be used or was unlawfully possessed.

b. A statement by a division commander or higher authority within the Wisconsin law enforcement agency that he or she has a reasonable suspicion that the person who is the subject of the information request has obtained or is attempting to obtain a handgun.

c. The signature of a division commander or higher authority within the Wisconsin law enforcement agency.

(d) Whenever a Wisconsin law enforcement agency makes a request for information under par. (c), the agency shall report to the subject of the information request the fact that a request has been made and the name of the Wisconsin law enforcement agency that made the request.

The agency shall make the report whenever the earliest of the following occurs:

1. The person who is the subject of the information request under par. (c) 2. b. is no longer material to the investigation conducted under par. (c) 2. a.

2. The Wisconsin law enforcement agency has completed its investigation under par. (c) 2. a.

3. One year after the date that the Wisconsin law enforcement agency made the request under par. (c).

(e) A Wisconsin law enforcement agency may disclose information that is provided by the department of justice under par. (c) to another law enforcement agency. If there is a request for information from a requester other than a law enforcement agency, the Wisconsin law enforcement agency shall not disclose information to the requester that is provided by the department of justice under par. (c). If there is a request by a requester other than a law enforcement agency to copy or inspect any record of the Wisconsin law enforcement agency that contains that information, the agency, acting under s. 19.36 (6), shall delete any portion of the record that relates to that information before release.

(f) A Wisconsin law enforcement agency that is provided access to a record under par. (c) shall destroy all corresponding information contained in the record when the earliest of the following occurs:

1. The person who is the subject of the information request under par. (c) 2. b. is no longer material to the investigation conducted under par. (c) 2. a.

2. The Wisconsin law enforcement agency has completed its investigation under par. (c) 2. a.

3. One year after the date the Wisconsin law enforcement agency made the request under par. (c).

(g) If a search conducted under sub. (2g) indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has attempted to obtain a handgun.

(h) If a search conducted under sub. (2g) indicates a felony charge without a recorded disposition and the attorney general or his or her designee has reasonable grounds to believe the transferee may pose a danger to himself, herself or another, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has obtained or has attempted to obtain a handgun.

(i) The department of justice may not charge a fee for any services that the department provides under pars. (c) to (j).

(j) If a law enforcement agency of a physically adjacent state makes a request under par. (c), the department shall comply with the request under all of the following circumstances:

1. The law enforcement agency of the physically adjacent state agrees to comply with all the requirements under this subsection.

2. The physically adjacent state allows Wisconsin law enforcement agencies similar or greater access to similar information from that physically adjacent state.

(2L) The department of justice shall promulgate rules providing for the review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right to purchase a handgun because the firearms dealer received a nonapproval number under sub. (2g) (c) 4. a. may request a firearms restrictions record search review under those rules. If the person disagrees with the re-

sults of that review, the person may file an appeal under rules promulgated by the department.

(2f) This section does not apply to any of the following:

(a) Transfers of any handgun classified as an antique by regulations of the U.S. department of the treasury.

(b) Transfers of any handgun between firearms dealers or between wholesalers and dealers.

(c) Transfers of any handgun to law enforcement or armed services agencies.

(3) Any person who intentionally violates sub. (2), (2e), (2f) or (2j) shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

175.37. Warning whenever transferring a firearm.

(1) Upon the retail commercial sale or retail commercial transfer of any firearm, the seller or transferor shall provide to the buyer or transferee the following written warning in block letters not less than one-fourth inch in height: "IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD YOU MAY BE FINED OR IMPRISONED OR BOTH IF THE CHILD IMPROPERLY DISCHARGES, POSSESSES OR EXHIBITS THE FIREARM."

(2) Any person who violates sub. (1) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

Chapter 813. Injunctions, Ne Exeat and Receivers

813.12. Domestic abuse restraining orders and injunctions. ...

(4m) Notice of restriction on firearm possession; surrender of firearms.

(a) An injunction issued under sub. (4) shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29.

2. Except as provided in par. (ag), require the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or family court commissioner. The judge or court commissioner shall approve the person designated by the respondent unless the judge or court commissioner finds that the person is inappropriate and places the reasons for the finding on the record. If a firearm is surrendered to a person designated by the respondent and approved by the judge or family court commissioner, the judge or family court commissioner shall inform the person to whom the firearm is surrendered of the requirements and penalties under s. 941.29 (4).

(ag) If the respondent is a peace officer, an injunction issued under sub. (4) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(am)1. When a respondent surrenders a firearm under par. (a) 2. to a sheriff, the sheriff who is receiving the firearm shall prepare a receipt for each firearm surrendered to him or her. The receipt shall include the manufacturer, model and serial number of the firearm surrendered to the sheriff and shall be signed by the respondent and by the sheriff to whom the firearm is surrendered.

2. The sheriff shall keep the original of a receipt prepared under subd. 1. and shall provide an exact copy of the receipt to the respondent. When the firearm covered by the receipt is returned to the respondent under par. (b), the sheriff shall surrender to the respondent the original receipt and all of his or her copies of the receipt.

3. A receipt prepared under subd. 1. is conclusive proof that the respondent owns the firearm for purposes of returning the firearm covered by the receipt to the respondent under par. (b).

4. The sheriff may not enter any information contained on a receipt prepared under subd. 1. into any computerized or direct electronic data transfer system in order to store the information or disseminate or provide access to the information.

(aw) A sheriff may store a firearm surrendered to him or her under par. (a) 2. in a warehouse that is operated by a public warehouse keeper licensed under ch. 99. If a sheriff stores a firearm at a warehouse under this paragraph, the respondent shall pay the costs charged by the warehouse for storing that firearm.

(b) A firearm surrendered under par. (a) 2. may not be returned to the respondent until a judge or family court commissioner determines all of the following:

1. That the injunction issued under sub. (4) has been vacated or has expired and not been extended.

2. That the person is not prohibited from possessing a firearm under any state or federal law or by the order of any federal court or state court, other than an order from which the judge or family court commissioner is competent to grant relief.

(c) If a respondent surrenders a firearm under par. (a) 2. that is owned by a person other than the respondent, the person who owns the firearm may apply for its return to the circuit court for the county in which the person to whom the firearm was surrendered is located. The court shall order such notice as it considers adequate to be given to all persons who have or may have an interest in the firearm and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the firearm returned. If the court returns a firearm under this paragraph, the court shall inform the person to whom the firearm is returned of the requirements and penalties under s. 941.29 (4).

813.122. Child abuse restraining orders and injunctions. [813.122(5m) reads essentially the same as 813.12(4m), above.]

Chapter 939. Crimes - General Provisions

939.22. Words and phrases defined. In chs. 939 to 948 and 951, the following words and phrases have the designated meanings unless the context of a specific section manifestly requires a different construction or the word or phrase is defined in s. 948.01 for purposes of ch. 948:

(2) "Airgun" means a weapon which expels a missile by the expansion of compressed air or other gas. ...

(10) "Dangerous weapon" means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in s. 941.295 (4); or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

Chapter 941. Crimes against Public Health and Safety

941.20. Endangering safety by use of dangerous weapon.

(1) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Endangers another's safety by the negligent operation or handling of a dangerous weapon; or

(b) Operates or goes armed with a firearm while he or she is under the influence of an intoxicant; or

(c) Intentionally points a firearm at or toward another.

941.23 Carrying concealed weapon. Any person except a peace officer who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor.

941.25. Manufacturer to register machine guns. Every manufacturer shall keep a register of all machine guns manufactured or handled by him or her. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received; and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given or delivered, or from whom received. Upon demand every manufacturer shall permit any marshal, sheriff or police officer to inspect his or her entire stock of machine guns, parts, and supplies therefor, and shall produce the register required under this section for inspection. Whoever violates any provision of this section is subject to a Class B forfeiture.

941.26. Machine guns and other weapons; use in certain cases; penalty.

(1)(a) No person may sell, possess, use or transport any machine gun or other full automatic firearm.

(b) Except as provided in sub. (4), no person may sell, possess, use or transport any tear gas bomb, hand grenade, projectile or shell or any other container of any kind or character into which tear gas or any similar substance is used or placed for use to cause bodily discomfort, panic, or damage to property.

(1m) No person may take a firearm that is not designed to shoot more than one shot, without manual reloading, by a single function of the trigger and modify the firearm so that it does shoot more than one shot, without manual reloading, by a single function of the trigger.

(2)(a) Any person violating sub. (1) (a) is guilty of a Class E felony.

(b) Any person violating sub. (1m) is guilty of a Class C felony.

(c) Except as provided in par. (d), any person who violates sub. (1) (b) regarding the possession, noncommercial transportation or use of the bomb, grenade, projectile, shell or container under sub. (1) (b) is guilty of a Class A misdemeanor.

(d) Any person who violates sub. (1)(b) regarding the possession, noncommercial transportation or use of the bomb, grenade, projectile, shell or container under sub. (1) (b) in self-defense or defense of another, as allowed under s. 939.48, is subject to a Class D forfeiture.

(e) Any person who violates sub. (1)(b) regarding the sale or commercial transportation of the bomb, grenade, projectile, shell or container under sub. (1) (b) is guilty of a Class E felony.

(f) Any person who violates sub. (1)(b) regarding the use of the bomb, grenade, projectile, shell or container under sub. (1) (b) to cause bodily harm or bodily discomfort to a person who the actor knows, or has reason to know, is a peace officer who is acting in an official capacity is guilty of a Class D felony.

(g) Any person who violates sub. (1) (b) regarding the use of the bomb, grenade, projectile, shell or container under sub. (1) (b) during his or her commission of another crime to cause bodily harm or bodily discomfort to another or who threatens to use the bomb, grenade, projectile, shell or container during his or her commission of another crime to incapacitate another person is guilty of a Class E felony.

(3) This section does not apply to the sale, possession, modification, use or transportation of any weapons or containers under sub. (1) or (1m) to or by any armed forces or national guard personnel in the line of duty, any civil enforcement officer of the state or of any city or county. This section does not apply to the sale, possession, modification, use or transportation of weapons under sub. (1) (a) or (1m) to or by any person duly authorized by the chief of police of any city or the sheriff of any county. This section does not apply to the restoration of any weapon under sub. (1) (a) or (1m) by a person having a license to collect firearms as curios or relics issued by the U.S. department of the treasury. The restriction on transportation contained in this section does not apply to common carriers.

(4)(a) Subsections (1) to (3) do not apply to any device or container that contains a combination of oleoresin of capsicum and inert ingredients but does not contain any other gas or substance that will cause bodily discomfort.

(b) Whoever intentionally uses a device or container described under par. (a) to cause bodily harm or bodily discomfort to another is guilty of a Class A misdemeanor.

(c) Paragraph (b) does not apply to any of the following:

1. Any person acting in self-defense or defense of another, as allowed under s. 939.48.

2. Any peace officer acting in his or her official capacity.

3. Any armed forces or national guard personnel acting in the line of duty.

(d) Whoever intentionally uses a device or container described under par. (a) to cause bodily harm or bodily discomfort to a person who the actor knows, or has reason to know, is a peace officer who is acting in an official capacity is guilty of a Class D felony.

(e) Whoever uses a device or container described under par. (a) during his or her commission of another crime to cause bodily harm or bodily discomfort to another or who threatens to use the device or container during his or her commission of another crime to incapacitate another person is guilty of a Class E felony.

(f) Any person who offers for sale a device or container described under par. (a) and who leaves in his or her place of business an unsold device or container in a place where customers have ready access to the device or container is subject to a Class C forfeiture.

(g) 1. Any person who sells or distributes a device or container described under par. (a) to a person who has not attained 18 years of age is subject to a Class C forfeiture.

2. A person who proves all of the following by a preponderance of the evidence has a defense to prosecution under subd. 1.:

a. That the purchaser or distributee falsely represented that he or she had attained the age of 18 and presented an identification card.

b. That the appearance of the purchaser or distributee was such that an ordinary and prudent person would believe that the purchaser or distributee had attained the age of 18.

c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser or distributee and in the belief that the purchaser or distributee had attained the age of 18.

(h) Any person who intentionally offers for sale a device or container in a place where customers have direct access to the device or container is guilty of a Class A misdemeanor.

(i) 1. Whoever intentionally sells a device or container described under par. (a) that does not meet the safety criteria provided in rules promulgated under subd. 2. is guilty of a Class A misdemeanor.

2. The department of justice shall promulgate rules providing safety criteria for devices or containers described under par. (a). In promulgating the rules, the department shall do all of the following:

a. Consider recommendations of law enforcement agencies, as defined in s. 165.83 (1) (b), and manufacturers of devices or containers described under par. (a).

b. Provide allowable amounts of oleoresin of capsicum, inert ingredients and total ingredients for a device or container described under par. (a).

c. Provide a maximum effective range for a device or container described under par. (a).

d. Provide other requirements to ensure that a device or container described under par. (a) is effective and appropriate for self-defense purposes.

3. Subdivisions 1. and 2. do not apply to sales of devices or containers described under par. (a) for use by peace officers or armed forces or national guard personnel.

(j) 1. Whoever intentionally sells a device or container described under par. (a) without providing the purchaser with all of the following is guilty of a Class A misdemeanor:

a. A proper label on the device or container.

b. Written safety instructions for using the device or container.

c. A package that contains a clear, highlighted message to the purchaser cautioning him or her to read and follow the safety instructions.

2. The department of justice shall promulgate rules providing the requirements for labeling, packaging and written safety instructions under subd. 1.

(k) Any person who has not attained the age of 18 years and who possesses a device or container described under par. (a) is subject to a Class E forfeiture.

(l) Any person who has been convicted of a felony in this state or has been convicted of a crime elsewhere that would be a felony if committed in this state who possesses a device or container described under par. (a) is subject to a Class A misdemeanor. This paragraph does not apply if the person has received a pardon for the felony or crime.

941.27. Machine guns.

(1) **Definition.** In ss. 941.25 and 941.26, "machine gun" means any of the following:

(a) Any weapon that shoots, is designed to shoot or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

(b) The frame or receiver of any weapon described under par. (a) or any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in

converting a weapon into a weapon described under par. (a).

(c) Any combination of parts from which a weapon described under par. (a) can be assembled if those parts are in the possession or under the control of a person.

(2) **Exceptions.** Sections 941.25 and 941.26 shall not prohibit or interfere with the manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose; the possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament or keepsake; or the possession of a machine gun other than one adapted to use pistol cartridges for a purpose manifestly not aggressive or offensive.

941.28. Possession of short-barreled shotgun or short-barreled rifle.

(1) In this section:

(a) "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of a propellant in a metallic cartridge to fire through a rifled barrel a single projectile for each pull of the trigger.

(b) "Short-barreled rifle" means a rifle having one or more barrels having a length of less than 16 inches measured from closed breech or bolt face to muzzle or a rifle having an overall length of less than 26 inches.

(c) "Short-barreled shotgun" means a shotgun having one or more barrels having a length of less than 18 inches measured from closed breech or bolt face to muzzle or a shotgun having an overall length of less than 26 inches.

(d) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of a propellant in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(2) No person may sell or offer to sell, transport, purchase, possess or go armed with a short-barreled shotgun or short-barreled rifle.

(3) Any person violating this section is guilty of a Class E felony.

(4) This section does not apply to the sale, purchase, possession, use or transportation of a short-barreled shotgun or short-barreled rifle to or by any armed forces or national guard personnel in line of duty, any peace officer of the United States or of any political subdivision of the United States or any person who has complied with the licensing and registration requirements under 26 USC 5801 to 5872. This section does not apply to the manufacture of short-barreled shotguns or short-barreled rifles for any person or group authorized to possess these weapons. The restriction on transportation contained in this section does not apply to common carriers. This section shall not apply to any firearm that may be lawfully possessed under federal law, or any firearm that could have been lawfully registered at the time of the enactment of the national firearms act of 1968.

(5) Any firearm seized under this section is subject to s. 968.20 (3) and is presumed to be contraband.

941.29. Possession of a firearm.

(1) A person is subject to the requirements and penalties of this section if he or she has been:

(a) Convicted of a felony in this state.

(b) Convicted of a crime elsewhere that would be a felony if committed in this state.

(bm) Adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in this state would be a felony.

(c) Found not guilty of a felony in this state by reason of mental disease or defect.

(d) Found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect or illness.

(e) Committed for treatment under s. 51.20 (13) (a) and ordered not to possess a firearm under s. 51.20 (13) (cv).

(f) Enjoined under an injunction issued under s. 813.12 or 813.122 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed under s. 806.247 (3).

(g) Ordered not to possess a firearm under s. 813.125 (4m).

(2) A person specified in sub. (1) is guilty of a Class E felony if he or she possesses a firearm under any of the following circumstances:

(a) The person possesses a firearm subsequent to the conviction for the felony or other crime, as specified in sub. (1) (a) or (b).

(b) The person possesses a firearm subsequent to the adjudication, as specified in sub. (1) (bm).

(c) The person possesses a firearm subsequent to the finding of not guilty or not responsible by reason of insanity or mental disease, defect or illness as specified in sub. (1) (c) or (d).

(d) The person possesses a firearm while subject to the court order, as specified in sub. (1) (e) or (g).

(e) The person possesses a firearm while the injunction, as specified in sub. (1) (f), is in effect.

(2m) Whoever violates this section after being convicted under this section is guilty of a Class D felony.

(3) Any firearm involved in an offense under sub. (2) is subject to s. 968.20 (3).

(4) A person is concerned with the commission of a crime, as specified in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person with a firearm in violation of sub. (2).

(5) This section does not apply to any person specified in sub. (1) who:

(a) Has received a pardon with respect to the crime or felony specified in sub. (1) and has been expressly authorized to possess a firearm under 18 USC app. 1203; or

(b) Has obtained relief from disabilities under 18 USC 925 (c).

(6) The prohibition against firearm possession under this section does not apply to any correctional officer employed before May 1, 1982, who is required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity.

(7) This section does not apply to any person who has been found not guilty or not responsible by reason of insanity or mental disease, defect or illness if a court subsequently determines both of the following:

(a) The person is no longer insane or no longer has a mental disease, defect or illness.

(b) The person is not likely to act in a manner dangerous to public safety.

(8) This section does not apply to any person specified in sub. (1) (bm) if a court subsequently determines that the person is not likely to act in a manner dangerous to public safety. In any action or proceeding regarding this determination, the person has the burden of proving by a preponderance of the evidence that he or she is not likely to act in a manner dangerous to public safety.

(9) This section does not apply to a person specified in sub. (1) (e) if the prohibition under s. 51.20 (13) (cv) 1. has been canceled under s. 51.20 (13) (cv) 2. or (16) (gm).

(10) The prohibition against firearm possession under this section does not apply to a person specified in sub. (1) (f) if the person satisfies any of the following:

(a) The person is a peace officer and the person possesses a firearm while in the line of duty or, if required to do so as a condition of employment, while off duty.

(b) The person is a member of the U.S. armed forces or national guard and the person possesses a firearm while in the line of duty.

941.297 Sale or distribution of imitation firearms.

(1) In this section, "look-alike firearm" means any imitation of any original firearm that was manufactured, designed and produced after December 31, 1897, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. "Look-alike firearm" does not include any imitation, nonfiring, collector replica of an antique firearm developed prior to 1898, or any traditional beebee, paintball or pellet-firing air gun that expels a projectile through the force of air pressure.

(2) Beginning November 1, 1992, no person may sell or distribute any look-alike firearm. Whoever violates this subsection is subject to a Class A forfeiture.

(3) This section does not apply to the sale or distribution of a look-alike firearm that complies with the marking or waiver requirements under 15 USC 5001 (b).

941.298 Firearm silencers.

(1) In this section, "firearm silencer" means any device for silencing, muffling or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating such a device, and any part intended only for use in that assembly or fabrication.

(2) Whoever sells, delivers or possesses a firearm silencer is guilty of a Class E felony.

(3) Subsection (2) does not apply to sales or deliveries of firearm silencers to or possession of firearm silencers by any of the following:

(a) Any peace officer who is acting in compliance with the written policies of the officer's department or agency. This paragraph does not apply to any officer whose department or agency does not have such a policy.

(b) Any armed forces or national guard personnel, while in the line of duty.

(c) Any person who has complied with the licensing and registration requirements under 26 USC 5801 to 5872.

941.31 Possession of explosives.

(1) Whoever makes, buys, transports, possesses, or transfers any explosive compound or offers to do the same, either with intent to use such explosive to commit a crime or knowing that another intends to use it to commit a crime, is guilty of a Class C felony.

(2)(a) In this subsection, "improvised explosive device" means a destructive explosive device capable of causing bodily harm, great bodily harm, death or property damage; with some type

of explosive material and a means of detonating the explosive material, directly, remotely, or with a timer either present or readily capable of being inserted or attached; which may include a pipe or similar casing, with the ends of the pipe or casing capped, plugged or crimped, and a fuse or similar object sticking out of the pipe or casing; and made by a person not engaged in the legitimate manufacture or legitimate use of explosives, or otherwise authorized by law to do so. "Improvised explosive device" does not include ammunition for any rifle, pistol or shotgun.

(b) Whoever makes, buys, sells, transports, possesses, uses or transfers any improvised explosive device, or possesses materials or components with intent to assemble any improvised explosive device, is guilty of a Class E felony.

(c) This subsection does not apply to the transportation, possession, use or transfer of any improvised explosive device by any armed forces or national guard personnel or to any peace officer in the line of duty or as part of a duty-related function or exercise. The restriction on transportation in this subsection does not apply to common carriers.

Chapter 943. Crimes against Property

943.06. Molotov cocktails.

(1) As used in this section, "fire bomb" means a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but does not mean a device commercially manufactured primarily for the purpose of illumination.

(2) Whoever possesses, manufactures, sells, offers for sale, gives or transfers a fire bomb is guilty of a Class E felony.

(3) This section shall not prohibit the authorized use or possession of any such device by a member of the armed forces or by fire fighters or law enforcement officers.

Chapter 948. Crimes against Children

948.55 Leaving or storing a loaded firearm within the reach or easy access of a child.

(1) In this section, "child" means a person who has not attained the age of 14 years.

(2) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class A misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) discharges the firearm and the discharge causes bodily harm or death to himself, herself or another.

(3) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class C misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) possesses or exhibits the firearm in a public place or in violation of s. 941.20.

(4) Subsections (2) and (3) do not apply under any of the following circumstances:

(a) The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.

(b) The firearm is securely locked with a trigger lock.

(c) The firearm is left on the person's body or in such proximity to the person's body that he or

she could retrieve it as easily and quickly as if carried on his or her body.

(d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person's duties.

(e) The child obtains the firearm as a result of an illegal entry by any person.

(f) The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under s. 939.48.

(g) The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.

(h) The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breech-loading firearm.

(5) Subsection (2) does not apply if the bodily harm or death resulted from an accident that occurs while the child is using the firearm in accordance with s. 29.304 or 948.60 (3).

948.60. Possession of a dangerous weapon by a person under 18.

(1) In this section, "dangerous weapon" means any firearm, loaded or unloaded; any electric weapon, as defined in s. 941.295 (4); metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles; a nunchaku or any similar weapon consisting of 2 sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather; a cestus or similar material weighted with metal or other substance and worn on the hand; a shuriken or any similar pointed star-like object intended to injure a person when thrown; or a manrikigusari or similar length of chain having weighted ends.

(2)(a) Any person under 18 years of age who possesses or goes armed with a dangerous weapon is guilty of a Class A misdemeanor.

(b) Except as provided in par. (c), any person who intentionally sells, loans or gives a dangerous weapon to a person under 18 years of age is guilty of a Class E felony.

(c) Whoever violates par. (b) is guilty of a Class D felony if the person under 18 years of age under par. (b) discharges the firearm and the discharge causes death to himself, herself or another.

(d) A person under 17 years of age who has violated this subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

(3)(a) This section does not apply to a person under 18 years of age who possesses or is armed with a dangerous weapon when the dangerous weapon is being used in target practice under the supervision of an adult or in a course of instruction in the traditional and proper use of the dangerous weapon under the supervision of an adult. This section does not apply to an adult who transfers a dangerous weapon to a person under 18 years of age for use only in target practice under the adult's supervision or in a course of instruction in the traditional and proper use of the dangerous weapon under the adult's supervision.

(b) This section does not apply to a person under 18 years of age who is a member of the

armed forces or national guard and who possesses or is armed with a dangerous weapon in the line of duty. This section does not apply to an adult who is a member of the armed forces or national guard and who transfers a dangerous weapon to a person under 18 years of age in the line of duty.

(c) This section does not apply to a person under 18 years of age who possesses or is armed with a firearm having a barrel 12 inches in length or longer and who is in compliance with ss. 29.304 and 29.593. This section does not apply to an adult who transfers a firearm having a barrel 12 inches in length or longer to a person under 18 years of age who is in compliance with ss. 29.304 and 29.593.

948.605. Gun-free school zones.

(1) Definitions. In this section:

(a) "Encased" has the meaning given in s. 167.31 (1) (b).

(ac) "Firearm" does not include any beebee or pellet-firing gun that expels a projectile through the force of air pressure or any starter pistol.

(am) "Motor vehicle" has the meaning given in s. 340.01 (35).

(b) "School" has the meaning given in s. 948.61 (1) (b).

(c) "School zone" means any of the following:

1. In or on the grounds of a school.

2. Within 1,000 feet from the grounds of a school.

(2) Possession of firearm in school zone.

(a) Any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone is guilty of a Class A misdemeanor.

(b) Paragraph (a) does not apply to the possession of a firearm:

1. On private property not part of school grounds;

2. If the individual possessing the firearm is licensed to do so by a political subdivision of the state or bureau of alcohol, tobacco and firearms in which political subdivision the school zone is located, and the law of the political subdivision requires that, before an individual may obtain such a license, the law enforcement authorities of the political subdivision must verify that the individual is qualified under law to receive the license;

3. That is not loaded and is:

a. Encased; or

b. In a locked firearms rack that is on a motor vehicle;

4. By an individual for use in a program approved by a school in the school zone;

5. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

6. By a law enforcement officer acting in his or her official capacity; or

7. That is unloaded and is possessed by an individual while traversing school grounds for the purpose of gaining access to public or private lands open to hunting, if the entry on school grounds is authorized by school authorities.

(3) Discharge of firearm in a school zone.

(a) Any individual who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a

place the individual knows is a school zone is guilty of a Class D felony.

(b) Paragraph (a) does not apply to the discharge of, or the attempt to discharge, a firearm:

1. On private property not part of school grounds;

2. As part of a program approved by a school in the school zone, by an individual who is participating in the program;

3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

4. By a law enforcement officer acting in his or her official capacity.

(4) Consecutive sentence. Notwithstanding s. 973.15 (2) to (4), if a court imposes a term of imprisonment under this section, the court shall impose the sentence consecutive to any other sentence.

948.61. Dangerous weapons other than firearms on school premises.

(1) In this section:

(a) "Dangerous weapon" has the meaning specified in s. 939.22 (10), except "dangerous weapon" does not include any firearm and does not include any beebee or pellet-firing gun that expels a projectile through the force of air pressure or any starter pistol.

(b) "School" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(c) "School premises" means any school building, grounds, recreation area or athletic field or any other property owned, used or operated for school administration.

(2) Any person who knowingly possesses or goes armed with a dangerous weapon on school premises is guilty of:

(a) A Class A misdemeanor.

(b) A Class E felony, if the violation is the person's 2nd or subsequent violation of this section within a 5-year period, as measured from the dates the violations occurred.

(3) This section does not apply to any person who:

(a) Uses a weapon solely for school-sanctioned purposes.

(b) Engages in military activities, sponsored by the federal or state government, when acting in the discharge of his or her official duties.

(c) Is a law enforcement officer acting in the discharge of his or her official duties.

(d) Participates in a convocation authorized by school authorities in which weapons of collectors or instructors are handled or displayed.

(e) Drives a motor vehicle in which a dangerous weapon is located onto school premises for school-sanctioned purposes or for the purpose of delivering or picking up passengers or property. The weapon may not be removed from the vehicle or be used in any manner.

(4) A person under 17 years of age who has violated this section is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

[Current through 2001 Wis. Acts 42 (Dec. 17, 2001)]